

Message Text

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TAGS: CPRS, EAGR, EINV

SUBJECT: GOH ENACTS STRICTER LIMITATIONS AND CONTROLS OVER FOREIGN OWNERSHIP OF LAND

REF: PORT-AU-PRINCE 1450

1. SUMMARY: A NEW LAND LAW, RECENTLY PASSED BY HAITIAN CHAMBER OF DEPUTIES, STRICTLY CONTROLS OWNERSHIP OF LAND BY ALIENS. HAITIAN CONSTITUTION ALREADY LIMITS RIGHT OF FOREIGNERS TO OWN LAND, RESTRICTING OWNERSHIP TO ONE PROPERTY FOR RESIDENTIAL PURPOSES AND TO LAND NECESSARY FOR AGRICULTURAL, INDUSTRIAL, COMMERCIAL AND EDUCATIONAL ENTERPRISES. THE NEW LAW ESTABLISHES MAXIMUM ACREAGE WHICH MAY BE USED FOR SUCH PURPOSES AND SETS OUT MUCH MORE DETAILED AND STRICTER REGULATIONS AN BUYING, HOLDING AND TRANSFERRING LAND BY FOREIGNERS IN ORDER TO ELIMINATE "ABUSES" WHICH HAVE OCCURRED IN RECENT YEARS. FOREIGN INDIVIDUALS AND COMPANIES WILL HAVE SIX MINTHS TO BRING THEIR OWNERSHIP OF LAND INTO COMPLIANCE WITH NEW LAW. END SUMMARY.

2. THE NEW LAW (WHICH WILL BECOME EFFECTIVE UPON PUBLICATION IN LE MONITEUR) REITERATES CONSTITUTIONAL REQUIREMENTS, I.E., FOREIGNERS OR FOREIGN CORPORATIONS CAN ACQUIRE REAL ESTATE IN UNCLASSIFIED

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HAITI FOR THE FOLLOWING PURPOSES ONLY: (A) FOR LIVING PURPOSES,

IF THEY ARE FULL TIME CONTINUOUS RESIDENTS IN HAITI, AND/OR
(B) BUSINESS PURPOSES, LIMITED TO AGRICULTURAL, COMMERCIAL,
INDUSTRIAL OR TEACHING ENTERPRISES. LAW THEN SPECIFIES THAT ALIENS
OR ALIEN CORPORATIONS MAY OWN ONLY 1 CARREAU (APPROXIMATELY
3.1 ACRES) IN URBAN AREAS OR 5 CARREAUX (15.5 ACRES) IN RURAL
AREAS. THE RIGHT TO OWN LAND DOES NOT INCLUDE OWNERSHIP OF SPRINGS,
RIVERS,MINERAL RIGHTS, OR RIGHT OF WAYS, WHICH BELONG TO THE
STATE. OWNERSHIP OF BEACH PROPERTY IS ALSO RESTRICTED. IN ADDITION,
THE PROPRIETOR IS SUBJECT TO ALL CHARGES, FEES AND RESTRICTIONS
AS TO USE OF THE LAND REQUIRED BY HAITIAN LAW. THERE ARE FURTHER
RESTRICTIONS WITH RESPECT TO RE-SALE AND/OR INHERITANCE OF LAND
OWNED BY FOREIGNERS.

3. PURCHASE OF LAND BY FOREIGNERS WILL NOW REQUIRE PRIOR PERMISSION
OF THE MINISTER OF JUSTICE. AN INDIVIDUAL MUST PROVE HE PLANS
TO MAKE HIS FULL TIME RESIDENCE IN HAITI, AND THUS MUST HAVE
A RESIDENCE VISA AND A RESIDENCE PERMIT. A FOREIGN CORPORATION
MUST PROVIDE THE DEPARTMENT OF JUSTICE INFORMATION ON THE
PURPOSE OF THE PURCHASE AND DETAILS OF HIS INDUSTRY, AS WELL AS
LEGALIZED COPIES OF THE DOCUMENTS ESTABLISHING THE CORPORATION.
THE NEW LAW STATES THAT FOREIGNERS ARE NOT GIVEN THE RIGHT TO
OPPRESS OTHERS OR TO DEVELOP PROFITS ONLY FOR THEMSELVES. THEY
HAVE THE DUTY, IF A FACTORY IS INVOLVED, TO PROVIDE COMFORTABLE,
CONVENIENT AND MODERN INSTALLATIONS AND TO ASSIST THEIR EMPLOYEES
TO ATTAIN BETTER SALARIES AND LIVING CONDITIONS. IN THE CASE
OF AGRICULTURAL PROPERTIES, THE FOREIGN OWNER IS OBLIGATED TO
CULTIVATE THE LAND IN THE MOST EFFICIENT AND INTENSIVE MANNER,
TO PROTECT THE LAND AGAINST EROSION, TO PROMOTE DIVERSIFICATION,
MECHANIZATION, ETC.

4. FOREIGN CONSTRUCTION COMPANIES WILL BE REGULATED BY SPECIAL
STATUTE.

5. MISSIONARY AND RELIGIOUS GROUPS, OR OTHER SOCIETIES AND ASSOCIATIONS,
EVEN THOSE AUTHORIZED TO ESTABLISH A BRANCH IN HAITI,
CAN ONLY ACQUIRE PROPERTY IN HAITI IF THEIR STATUTES HAVE BEEN
APPROVED BY A PRESIDENTIAL DECREE AND EVEN THEN ONLY UNDER THE
CONDITIONS PROVIDED BY THE CONSTITUTION AND THE PRESENT LAW.

6. EVERY TWO YEARS A FOREIGN INDIVIDUAL OR COMPANY MUST REPORT
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TO THE DEPARTMENT OF JUSTICE A LIST OF ALL REAL ESTATE OWNED,
PLUS DETAILS ON ANY ACQUISITIONS PLANNED.

7. A SPECIAL EXCEPTION IS MADE IN THE CASE OF LEASE CONTRACTS
FOR LARGE AREAS OF LAND FOR AGRICULTURAL OR INDUSTRIAL PURPOSES.
SUCH CONTRACTS MUST BE AUTHORIZED BY THE PRESIDENT, CONFER NO
RIGHTS OF TRANSMISSION OF THE PROPERTY AND ARE LIMITED TO NINE
YEARS, RENEWABLE IF BOTH CONTRACTING PARTIES AGREE.

8. A CORPORATION WHICH HAS BEEN ESTABLISHED IN HAITI ACCORDING TO HAITIAN LAW, WHICH HAS ITS MAIN OFFICE IN HAITI, AND WITH AT LEAST FIFTY PERCENT OF ITS STOCK OWNED BY HAITIANS, WOULD BE CONSIDERED A HAITIAN ENTITY AND THUS NOT SUBJECT TO THE RESTRICTIONS APPLICABLE TO FOREIGN COMPANIES.

9. THE LAW PROVIDES AN INTERIM PERIOD OF SIX MONTHS FOR FOREIGN INDIVIDUALS AND COMPANIES TO COMPLY WITH THE NEW LAW.

10. EMBASSY COMMENTS ON EFFECTS OF LAW AND TRANSLATED TEXT FOR DISTRIBUTION WILL FOLLOW. ISHAM

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